IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.797 OF 2000

The Commissioner of Income Tax
Mumbai City IV, Mumbai .. Appellant
V/s
Shri.Hemendra V.Shah .. Respondent

Mr.A.K.Kotangale for the Appellant.

Mr.Ajay Singh i/by K.Gopal & Pramod Kumar Parida for the Respondent.

CORAM: S.RADHAKRISHNAN &
A.S.AGUIAR, JJ.

DATE : 06.06.2005.

P.C.:

1. Heard the learned Counsel for the parties. The learned Counsel for the petitioner has pointed out that as far as Question No.(i) is concerned, the same has now become infructuous in view of the fact that the Mis.Application filed by the Department has already been disposed of by an order dated 3rd November, 2000 passed by the Income Tax Appellate Tribunal. Hence Question No.(i) does not survive.

2. So far as Question Nos.(ii) and (iii) are concerned, we have perused the order of the Income Tax Appellate Tribunal dated 31st May, 1999 and it is apparent from the said order that the matter had been remanded back to the Commissioner of Income Tax (Appeal) whereas the factual issue was not taken into account by the Commissioner of Income Tax (Appeal) and was not adjudicated. The above two questions however do not raise any questions of law and they only involve the

facts. Under these circumstances there is no merit in this Appeal. Appeal stands dismissed.

(S.RADHAKRISHNAN,J.)

(A.S.AGUIAR,J.)